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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,478	05/16/2006	Bruno Aeberhard	3677	8486
7590 Striker, Striker & Stenby 103 East Neck Road Huntington, NY 11743			EXAMINER LOPEZ, MICHELLE	
		ART UNIT 3721	PAPER NUMBER	
			MAIL DATE 08/23/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.	AEBERHARD, BRUNO	
Examiner	Art Unit	

Michelle Lopez 3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 16 May 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-10 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 5/16/06.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 recites the limitation "the same direction" in line 3. There is insufficient antecedent basis for this limitation in the claim. Also, note that such "same direction" is indefinite in that it has no point of reference in that it is unclear if such same direction is related to any of the directions of rotation of the fan as a radial direction with respect to the tool housing, or if it is related to an axial direction with respect to said housing. Clarification is requested.

Claim 10 recites the limitation "the radial direction" in line 3 and "the axial direction" in line 4. There is insufficient antecedent basis for these limitations in the claims.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Decker USPN 2,155,082.

Decker discloses a handheld power tool having a motor 1, a planetary gear 22 and a tool receptacle 16, characterized by a fan 6 located upstream the motor for generating a cooling air stream that cools the planetary gear (claim 1); the fan is integrated with the planetary gear via 5 (claim 2); the fan is located between the motor and a gear stage 4 (claim 3); the fan generates a cooling air stream flowing through the planetary gear as shown in fig. 3 (claim 4); a housing having at least one first opening 7 and one second opening 9,43 and at least one ventilation conduit which extends continuously from the first ventilation opening through the planetary gear to the second ventilation opening as shown in fig.4 (claim 5); a coupling region at 14 and at least one ventilation conduit 8,9 (claim 6); the fan generates an air stream directed in a radial direction at the vicinity of 31 of the tool housing and includes a deflection means 32 for deflecting the air stream in an axial direction of said housing (claim 10).

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1, 3-7, and 10 are rejected under 35 U.S.C. 102(a) as being anticipated by Wu US\_PGPUB 2005/0230134.

Wu discloses a handheld power tool having a motor 9, a planetary gear 8a and a tool receptacle, characterized by a fan 2 located upstream the motor for generating a cooling air stream that cools the planetary gear (claim 1); the fan is located between the motor and a gear stage (claim 3); the fan generates a cooling air stream flowing through the planetary gear (claim 4); a housing having at least one first opening 1 and one second opening 4 and at least one ventilation conduit 6 which extends continuously from the first ventilation opening 1 through the planetary gear to the second ventilation opening 4 (claim 5); a coupling region at the vicinity of 6 (claim 6); wherein the fan is located at a vicinity of a gear wheel (claim 7); the fan generates an air stream directed in a radial direction of the fan and includes a deflection means via conduit 6 for deflecting the air stream in an axial direction (claim 10).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Decker USPN 2,155,082 in view of Nishikawa et al. USPN 6,779,612.

Decker discloses the invention as discussed above except for a fan rotatable in two directions of rotation and in both directions of rotation generates an air stream in the same direction. However, Nishikawa teaches the concept of a power tool having a motor and fan assembly rotatable in two directions of rotation, i.e. forward and reverse, wherein in both directions of rotation said fan generates an air stream in a same axial direction along a housing 3

and passing through the motor for the purpose of effectively cooling the motor when it rotates in either direction (see col. 1, lines 6-10 and col. 3, lines 1-4). It would have been obvious to one having ordinary skill in the art to have provided Decker's fan to be a two-way rotatable fan as taught by Nishikawa in order to effectively cool the motor of the tool.

With respect to claim 9, Nishikawa discloses wherein the fan has blades 2 with at least two faces, one face facing to a first direction of rotation 10 and the other face facing to a second direction of rotation opposite to the first direction of rotation, wherein both blade faces direct air at least partly in a same axial direction along the housing 3 as broadly claimed.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yamada, McCurry, Hofmann, and Kress are cited to show related inventions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Lopez whose telephone number is 571-272-4464. The examiner can normally be reached on Monday - Thursday: 8:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ML/  
Patent Examiner



Rinaldi I. Rada  
Supervisory Patent Examiner  
Group 3700